BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

DENNIS D. ROBERTS, SR. Claimant	
VS.) Docket No. 175 451
GENERAL MOTORS CORPORATION, CHEVROLET-PONTIAC-CANADA GROUP, FAIRFAX PLANT Respondent	Docket No. 175,451
AND	(
SELF INSURED Insurance Carrier	
AND	
KANSAS WORKERS COMPENSATION FUND	\ <u></u>

ORDER

Respondent requests the Appeals Board to review an Order entered by Administrative Law Judge Alvin E. Witwer on December 13, 1994, that denied respondent's Motion to Quash Subpoena Duces Tecum.

ISSUES

The claimant issued a Subpoena Duces Tecum to respondent's General Motors Workers Compensation Administrator requesting any and all records and files regarding the claimant. Respondent filed a Motion to Quash Subpoena Duces Tecum. After hearing arguments of counsel, Administrative Law Judge Alvin E. Witwer in an Order dated December 13, 1994, denied respondent's Motion. The respondent appeals raising the sole issue that the Administrative Law Judge exceeded his jurisdiction in denying the Motion.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board will first address the initial issue as to whether or not it has jurisdiction to review the December 13, 1994, Order of Administrative Law Judge Alvin E. Witwer. After reviewing the arguments contained in the briefs of the parties, the Appeals Board finds and concludes that it does not have jurisdiction to review this particular Order.

IT IS SO ORDERED.

The decision of the Administrative Law Judge to deny respondent's Motion to Quash Subpoena Duces Tecum is interlocutory in nature and made during the litigation of a workers compensation case before the Administrative Law Judge. This is not a final order that can be reviewed pursuant to K.S.A. 44-551 (as amended by S.B. 59, 1995). Neither is this an order pursuant to the preliminary hearing statute, K.S.A. 44-534a, as preliminary hearing orders are limited to issues of furnishing of medical treatment and payment of temporary total disability compensation. The Order now before us pertains to an interlocutory matter, an evidentiary ruling, over which an Administrative Law Judge has authority to adjudicate if called upon during the workers compensation proceeding.

WHERÉFORE, it is the finding, decision, and order of the Appeals Board that the Application for Review filed by the respondent is dismissed as the Appeals Board lacks jurisdiction to review the Order of Administrative Law Judge Alvin E. Witwer denying the respondent's Motion to Quash Subpoena Duces Tecum.

Dated this	_ day of February, 1995.	
	BOARD MEMBER	
	BOARD MEMBER	

BOARD MEMBER

c: Michael R. Wallace, Overland Park, KS Jeffrey M. Pfaff, Kansas City, MO Terri Z. Austenfeld, Overland Park, KS Alvin E. Witwer, Administrative Law Judge George Gomez, Director